

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye  
Marshall Johnson  
Thomas Pugh  
Phyllis A. Reha

Chair  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Application of  
CenterPoint Energy for Authority to Increase  
Natural Gas Rates in Minnesota

ISSUE DATE: June 12, 2007

DOCKET NO. G-008/GR-05-1380

ORDER AWARDING INTERVENOR  
COMPENSATION AND DIRECTING  
PAYMENT

**PROCEDURAL HISTORY**

On January 26, 2006, Energy CENTS Coalition (ECC) submitted its request for intervenor compensation in the amount of \$20,000, based on a projected budget of \$26,281, to participate in CenterPoint Energy's 2005 rate case.

On March 6, 2006, the Commission issued its ORDER MAKING PRELIMINARY DETERMINATION OF ELIGIBILITY FOR INTERVENOR COMPENSATION in this proceeding. In that Order, the Commission found that ECC was an intervenor, and had provided enough information for the Commission to make a preliminary determination that ECC's financial resources were insufficient to participate in this case but for an award of intervenor compensation. In the March 6, 2006 Order, the Commission also found that a preliminary determination on the discretionary factors listed in Minn. Rules, Part 7831.0500 would not be useful to the Commission in this proceeding.

On November 2, 2006, the Commission issued its FINDING OF FACT, CONCLUSIONS OF LAW, AND ORDER in this proceeding, and on January 22, 2007, issued its ORDER DENYING RECONSIDERATION.

On February 14, 2007, ECC filed its claim for the intervenor compensation that it asked for in its January 26, 2006 request.

On March 19, 2007, CenterPoint Energy (CPE) indicated by e-mail that it was not filing a response to ECC's claim for compensation. CPE stated that given ECC's contributions to the Affordability Program in this rate case, it did not oppose ECC's claim.

No other intervenor filed comments on ECC's claim.

The Commission met on May 24, 2006 to consider this matter.

## **FINDINGS AND CONCLUSIONS**

### **I. Background**

Minn. Stat. § 216B. 16, subd. 10 allows the Commission to order a utility to pay an intervenor up to \$20,000 for participating in a proceeding if the intervenor has materially assisted the Commission and the intervenor has insufficient financial resources to afford the cost of intervention.

Minn. Rules, Ch. 7831 contains the Commission's intervenor compensation rules. These rules include an outline of the information that the applicant must provide in a claim for compensation. They also provide an outline of the process and list criteria the Commission is expected to use in making its decision to grant or deny a request for compensation.<sup>1</sup>

Pursuant to Minn. Rules, Part 7831.0800, subp. 1, the Commission is required to make a decision awarding or denying compensation within 120 days of receiving a claim for compensation. Pursuant to Minn. Rules, Part 7831.0800, subparts 2 and 3, the Commission must determine whether it was materially assisted in its deliberations by ECC and whether ECC has insufficient financial resources. Minn. Rules, Part 7831.0800, subpart 4 requires an issue-by-issue determination of (a) whether material assistance was provided, and (b) the amount of compensation awarded.

### **II. ECC's Request for Intervenor Compensation**

#### **A. Financial Status**

ECC stated that there have been no substantial changes in its financial status since the Commission granted it an award of intervenor compensation in Xcel's 2005 electric rate case on February 23, 2007.<sup>2</sup> In the February 23, 2007 Order, the Commission found as follows:

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<sup>1</sup> Minn. Rules, Part 7831.0800.

<sup>2</sup> See *In the Matter of the Application of Northern States Power Company d/b/a Xcel Energy to Increase Rates for Electric Service in the State of Minnesota*, ORDER GRANTING CLAIM FOR INTERVENOR COMPENSATION, Docket No. E-002/GR-05-1428 (February 23, 2007) at page 4.

The financial information submitted shows that Energy CENTS would be unable to pay for services and costs associated with intervention, but for a compensation award.

ECC believes the rule that allows the Commission to rely on recent (i.e., within the last year) findings of insufficient resources to make a preliminary determination regarding an intervenor's eligibility for intervenor compensation could be applied to ECC's claim for compensation in this docket despite the fact that this provision is in the part of the intervenor compensation rules that covers requests for compensation rather than claims for compensation.<sup>3</sup> ECC believes that because there was only a two month difference in time between the date ECC filed its claim in the Xcel electric case, and the date it filed its claim in this case, the Commission could rely on the review and determination in the Xcel electric case, in this proceeding.

ECC stated that the only difference between the October 2006 financial statements submitted in its claim in the Xcel electric case and the December 2006 financial statements submitted in this case was an increase in the amount of deferred revenue in the Home Energy Savings Program (HESP) account. According to ECC, HESP funds are used to supplement the cost of providing home energy audits, weatherization services, and carbon monoxide detectors to consumers when ECC provides Conservation Improvement Program (CIP)-related services under its contract with Xcel.

## **B. Material Assistance**

ECC argued that it met the "material assistance" requirement of Minn. Rules, Part 7831.0600, subp. 2 (c) through the submission of testimony, briefs, and exceptions to the Administrative Law Judge's (ALJ's) Report as well as through its review of draft tariff language, participation in public hearings, settlement negotiations, and evidentiary hearings, and by responding to information requests in this case on numerous issues.

ECC described in detail its assistance to the Commission with respect to the following issues: bad debt factor; commodity price of natural gas; CenterPoint Energy's proposal to recover bad debt expense through the PGA; CPE's proposal to allocate income tax expense in the class cost of service study (CCOSS) on the basis of rate base; cost of fuel for CPE's fleet of vehicles; cost of capital/return on equity; residential customer charge; and the affordability program.

## **C. Expenses Claimed**

ECC reported that its expenses related to this intervention exceeded its estimate by \$3,572. In its January 26, 2006 request, ECC estimated its expenses would be \$26,281. In its claim, ECC reported that its expenses totaled \$29,853, as follows:

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<sup>3</sup> Minn. Rule 7831.0300, subp. 3.

Total payroll	\$ 24,630
Copying/printing	\$ 563
Postage	\$ 292
Rent	\$ 1,498
Office supplies	\$ 172
Accounting	\$ 1,667
Parking	\$ 108
Per diem	\$ 145
Publications	\$ 144
Legal miscellaneous	\$ 8
Other overhead	\$ 628
<b>TOTAL</b>	<b>\$ 29,853</b>

### **III. The Commission's Analysis and Action**

#### **A. Filing Requirements**

ECC filed its claim on February 14, 2007 within 90 days of the Commission issuing its ORDER DENYING RECONSIDERATION on January 22, 2007. Therefore, ECC's Claim for Compensation was filed in time, i.e., within 90 days, pursuant to Minn. Rules, Part 7831.0600, subp. 1.

ECC also provided the information specified in Minn. Rules, Part 7831.0600, subp. 2.

#### **B. Material Assistance**

The Minnesota legislature has authorized the Commission to consider ability to pay as a factor in setting utility rates and to establish programs for low-income residential ratepayers in order to ensure affordable, reliable, and continuous service to low-income utility customers.<sup>4</sup> The Commission has determined that ECC provided material assistance to the Commission in

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<sup>4</sup> Minn. Stat. § 216B.16, subd. 15(a), which states in relevant part: "The commission may consider ability to pay as a factor in setting utility rates . . . ."

considering a number of issues involving low-income residential customers' ability to pay. ECC's contribution to this docket was particularly significant regarding the affordability program,<sup>5</sup> of course, but ECC also contributed substantially regarding CPE's proposal to allocate income tax expense in the CCOSS on the basis of rate base and other issues cited by ECC in its application. ECC's participation was particularly relevant to ensuring a fair Commission decision for low-income consumers because ECC's position on these issues provided a check as to whether a particular alternative would contribute to or promote the public policy goal of making affordable and uninterrupted service available to low-income ratepayers, and a gauge of the reasonableness of various alternatives.

### **C. Insufficient Financial Resources**

The Commission concludes that ECC had insufficient financial resources to participate effectively in this case but for an award of compensation. The Commission notes that ECC's financial status has changed little since the Commission made its February 23, 2007 determination in the Xcel electric rate case that ECC "would be unable to pay for services and costs associated with intervention, but for a compensation award." The Commission also notes its May 4, 2007 preliminary determination in the Xcel gas rate case "that ECC has made a sufficient showing, for this stage of the proceedings, on the insufficient financial resources issue."<sup>6</sup>

Indeed, the only difference between its October 2006 financial statements (which were reviewed as part of its claim for compensation in the Xcel electric rate case) and its December 2006 financial statements (which were submitted as part of its claim in this rate case) was an increase in the amount of deferred revenue in its Home Energy Savings Program (HESP) account. According to ECC, these funds are unavailable for rate case expenses because they are to be used to supplement the services ECC provides consumers under its CIP contract with Xcel. ECC does not and cannot use this money to fund its participation in regulatory proceedings.

As to the \$80,000 two-year grant from the Minneapolis Foundation to support, among other things, rate case interventions, only a small part of this \$80,000 may be used for rate case related activities. ECC explained that its request for this grant indicated that ECC would use this money for many other activities besides rate case interventions.

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<sup>5</sup> Minn. Stat. § 216B.16, subd. 15(a), which states in relevant part: "The commission may . . . establish programs for low-income residential ratepayers in order to ensure affordable, reliable, and continuous service to low-income utility customers."

<sup>6</sup> *In the Matter of the Application of Northern States Power Company, a Minnesota Corporation and Wholly Owned Subsidiary of Xcel Energy Inc., for Authority to Increase Rates for Natural Gas Service in Minnesota*, Docket No. G-002/GR-06-1429, ORDER MAKING PRELIMINARY DETERMINATION OF ELIGIBILITY FOR INTERVENOR COMPENSATION (May 4, 2007).

#### **D. Bases for Compensation**

Having found that ECC meets the two essential criteria to be entitled to intervenor compensation (insufficient financial resources and material assistance), and that it has reasonably incurred expenses in excess of the recovery limit (\$20,000),<sup>7</sup> the Commission will grant ECC's claim for \$20,000 in intervenor compensation.

Pursuant to Minn. Rules, Part 7831.0800, Subp. 4, the \$20,000 is warranted and allocated among the issues addressed by ECC as follows.

<b>ISSUE</b>	<b>AMOUNT (Percentage)</b>	<b>BASIS</b>
Affordability Program	\$ 18,000 (90.00%)	ECC contributed substantially to the record in this proceeding regarding the proposed Affordability Program. ECC also provided information about the burden of unaffordable energy bills, the Low-Income Home Energy Assistance Program (LIHEAP) administration, operation and funding levels, designs and evaluations of utility-sponsored affordability programs and recommendations for CPE's proposed program design. ECC addressed each of the arguments against adopting such a program and the ALJ and the Commission subsequently rejected those arguments.
Proposal to allocate income tax expense in the CCOSS on the basis of rate base	\$ 500 (2.50%)	ECC was the only party to file testimony on this issue. The Commission adopted ECC's position that income tax expense should be allocated to the rate classes on the basis of pre-tax income rather than rate base.

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<sup>7</sup> Minn. Stat. § 216B.16, subd. 10 limits the allowable amount of intervenor compensation to \$20,000.

Cost of fuel for CPE's fleet of vehicle	\$ 250 (1.25%)	On these six issues, ECC represented the interests of low-income consumers, whose interests of might not have been adequately heard without ECC's participation. This was not the result of lack of ability or interest on the part of the state agencies, but a reflection of the severely limited resources under which they operate. ECC's participation was particularly relevant to ensuring a fair Commission decision for low-income consumers because ECC's position on these issues provided: (a) a check as to whether a particular alternative would contribute to or promote the public policy goal of making affordable and uninterrupted service available to low-income ratepayers, <sup>8</sup> and (b) a gauge of the reasonableness of various alternatives.
Commodity price of natural gas	\$ 250 (1.25%)	
Proposal to recover bad debt expense through the PGA	\$ 250 (1.25%)	
Bad debt factor	\$ 250 (1.25%)	
Residential customer charge	\$ 250 (1.25%)	
Cost of capital/return on equity	\$ 250 (1.25%)	
<b>TOTAL</b>	<b>\$ 20,000 (100.00%)</b>	

### ORDER

1. The Commission hereby grants ECC's claim and awards it the maximum allowable amount of intervenor compensation: \$20,000.
2. The award of \$20,000 is prorated among all of ECC's issues as follows:

Affordability Program	\$ 18,000	90.00%
Proposal to allocate income tax expense in the CCOSS on the basis of rate base	\$ 500	2.50%
Cost of fuel for CPE's fleet of vehicle	\$ 250	1.25%
Commodity price of natural gas	\$ 250	1.25%
Proposal to recover bad debt expense through the PGA	\$ 250	1.25%
Bad debt factor	\$ 250	1.25%
Residential customer charge	\$ 250	1.25%
Cost of capital/return on equity	\$ 250	1.25%
	<b>\$ 20,000</b>	<b>100.00%</b>

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<sup>8</sup> Minn. Stat. § 216B, subd. 15.

3. Within 30 days of this Order, CenterPoint Energy shall pay the award of compensation to ECC and file with the Commission proof that it has paid ECC the amount awarded pursuant to Minn. Rules, Part 7831.0800, subp. 6.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)

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